

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS.

RAFAEL DE ARMAS  
PLAINTIFF  
VS.

JOSEPH L. ELSMORE  
INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY AS CORRECT-  
IONAL OFFICER IN MCI NORFOLK

NELSON ALVES, INDIVIDUALLY IN HIS  
OFFICIAL CAPACITY AS SUPERINTENDENT  
OF MCI NORFOLK DEPARTMENT OF CORRECT.

DEFENDANTS

JURISDICTION

1- This is a CIVIL ACTION AUTHORIZED BY 42 USC SEC 1983  
TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW OF  
RIGHTS SECURED BY THE ~~THE~~ CONSTITUTION OF THE UNITED STATES.  
THE COURT HAS JURISDICTION UNDER 28 USC SEC 1333. PLAINTIFF SEEK DECLARATORY RELIEF, PURSUANT TO 28 USC SECS 2201-  
AND 2202

PARTIES

2- PLAINTIFF IS A PRISONER AT MASSACHUSETTS DEPARTMENT OF CORRECTION, NORFOLK. HE IS CURRENTLY CONFINED IN THE RHU SEGREGATION UNIT, NORFOLK MEDIUM SECURITY PRISON, SERVING A LIFE SENTENCE.

3- DEFENDANT JOSEPH L ELSMORE IS A CORRECTION OFFICER OF THE DEPARTMENT OF CORRECTION, NORFOLK

FILED  
IN CLERKS OFFICE

U.S. DISTRICT COURT  
DISTRICT OF MASS.

2021 JUN 28 PM 1:01

COMPLAINT

CIVIL ACTION NO.  
CIVIL RIGHTS

2.

At all time mentioned in this complaint was assigned as a DOC OFFICER AT NORFOLK MEDIUM SECURITY PRISON, MASSACHUSETTS CORRECTIONAL INSTITUTION.

4- DEFENDANT NELSON ALVES IS THE SUPERINTENDENT OF MCI NORFOLK CORRECTIONAL INSTITUTION. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT AND THE WELFARE OF ALL INMATES OF THAT PRISON.

5- EACH DEFENDANT IS SUED INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, AT ALL TIME MENTIONED IN THIS COMPLAINT, EACH DEFENDANT ACTED UNDER THE COLOR OF MASS. LAW.

### FACTS

6- ON 2-21-21 APPROX. 7:10 P.M. I WENT FOR MEDICATION IN THE INSTITUTION HOSPITAL.

7- OFFICER JOSEPH L- ELSMORE WAS THE OFFICER WORKING ON THE MEDICATION LINE WHEN I GOT TO THE HOSPITAL.

8- AS I WENT TO THE WINDOW C-D ELSMORE HAD LEFT AND THE NURSE GAVE ME MY MEDICATION: (2) RED SMALL PILLS. NO-NARCOTIC. WELLBUTRINE AND (1) WHITE PILL. NO NARCOTIC. LITIUM. THIS MEDICATION NEITHER ONE OF THEM ARE PSYCHOTICS.

9- AS I WAS LEAVING BACK TO MY UNIT SOMEBODY FROM MY UNIT WENT INSIDE THE ENFERMERY. I STOPPED IN FRONT OF THE ENFERMERY TO SEE WHAT HAPPENED TO MY FRIEND, TO SEE IF HE WAS ALRIGHT.

10 I HEARD SOMEBODY TO SAY MOVE! MOVE! I TOOK THE TONE ON THE EXPRESSION AS THE EXPRESSION OF SOMEBODY WHO GOT UPSET FOR MY ASKING A FRIEND IF SOMETHING WAS WRONG, OR SOMETHING HAPPENED TO HIM.

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11- I did not see who said move, but I noticed that Officer Elsmore was still in the hospital talking with other cops.

12- I left the hospital to my unit 8-1. but As I looked back to see if somebody from 8-1 was coming, I saw C.O Elsmore was the only one who came when I left the hospital.

13- When I got to the entry of the passage that goes from the QUA, to the East side, I heard C.O Elsmore called, and he asked what did I have on my hand. I said, me, nothing and I continued walking.

14- I realized that there was not light in that passway, nor another person. I turned and I kept walking.

15- Officer Elsmore kept saying that I threw something away. He started to get close to me.

16- I did not want to stop; Officer Elsmore in 2007 in Walpole, jumped on me, then, he gave me a DDU-report, accusing me of assaulting him.

17- A week or so, Officer Elsmore worked in 8-1, the unit I lived. That was the first time I saw him, since he did that to me, for which I was sentenced to 3 yrs' DDU. I approached him and I told him. "You know I did not ~~assault~~ assault you!" He kept on walking, he mumbled something like that is the pass. I couldn't hear.

18- He now wanted me to stop in the middle of no

WHERE THERE WAS nobody, but me and him and  
THE light WAS OFF through the whole PASSWAY, FROM  
THE GUA TO THE EAST SIDE TO THE 8<sup>TH</sup>. UNIT

19- C-O Elsmore Again Called me And I said I  
Am doing Nothing wrong.

20- C-O Elsmore somehow got in front of me  
and started to tell me to open my mouth, I started  
to protest, when C-O Elsmore raised a hand to what  
I believe, that he tried to grab my hand.

21- I tried to walk to my unit that was close to  
where he was stopping me from walking; C-O Elsmore  
jumped on me and he dragged me to the floor ~~and~~  
~~he talked on the speaker~~, and a lot of cops ran to help.

22- The Cops came and they were holding me on  
the floor while other cops were pulling my hand all  
the way up, to cuff my hands behind my back, but  
the person was hurting me, pushing my arm all the way back.

23- Another person step on my head while  
another person was bending my wrist, step on my leg.

24- The person that was bending my wrist bend-  
ed my thumb all the way back, and he made the  
bone on my right hand to come out of its place. A  
bone that once I broke and it was placed back  
with two pins. Now it hurt all the time and nothing  
does not help. The OFFICER who bended my thumb is ~~Michael Dalton~~

25- THEY CUFFED ME AND THEY DRAGGED ME ON TIP-  
TOP ALL THE WAY TO THE BHU. THEY PUT CUFF ON MY LEGS  
AND MY HAND ON THE BACK. THEN THEY WALK SO FAST THAT I WAS

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dragged on the tip of my feet

26- I WAS TAKEN TO THE RHU. WHERE THEY PUT ME IN WAITING CELL, AND THEY WANTED TO TAKE THE CUFF FROM ME, BUT I REFUSED UNTIL SOME BODY COME TO SEE WHAT THEY HAD DONE TO ME.

27- I WAS IN PAIN AND I SAID THE COPS THAT BROUGHT ME TO THE RHU. "YOU GUYS DO THIS TO ME BECAUSE YOU GOT YOUR FACE COVER ~~THE~~ I DON'T ~~KNOW~~ ~~WHO~~ YOU ARE.

28- EXHIBIT 22 INCIDENT REPORT Michael Delton is the officer

28- THAT IS WHEN OFFICER Michael Delton spoke and HE SAID, "YOU KNOW WHO I AM CUBA. I RECOGNIZED HIS VOICE THEN. HE WAS BENDING MY THUMB, HURTING IT."

29- THE NURSE CAME TO SEE MY WOUNDS. I HAD THE SKIN RIP ON MY HAND, BRUISES ALL OVER MY HANDS.

30- I WANTED AN OFFICIAL TO SEE ME IN THIS CONDITION THAT I WAS, SO I SAID, NO, UNTIL AN ~~OFFICIAL~~ OFFICIAL COME. I DO NOT WANT TO SEE THE NURSE.

31- CAPTAIN PLANTE CAME. AND I TOLD HIM WHAT HAPPENED AND I EXPLAINED THAT I DID NOT STOP, BECAUSE THAT OFFICER IN 2007 IN WALPOLE ASSAULTED ME.

32- THE FIRST THING THAT CAPTAIN PLANTE SAID WAS THAT THIS KID DID NOT WORK AT WALPOLE IN 2007.

33- CAPTAIN PLANTE ORDERED THAT I WERE PLACED IN A CELL. THEY PUT ME IN CELL 1-10 ON THE FIRST FLOOR WHERE I HAVE BEEN EVER SINCE.

34- ON ABOUT 2-23-21 I WAS SERVED WITH D-REPORT #471918 ACCUS~~ED~~ ~~ME~~ OF CONCEAL CONTRABAND, AND ~~ME~~

ASSAULT STAFF SEE EXHIBIT A. DWV AND DA REFERAL.

35- On About 2-23-21 I wrote a letter to the MASSACHUSETTS STATE POLICE DIVISION OF INVESTIGATION SERVICES, 140 WORCESTER ROAD, FRAMINGHAM, MA. 01702.

36- On About 3-4-21 I filed GRIEVANCE #112875 SEE EXHIBIT B. I ALSO WROTE TO Supt. NELSON ALVES EXPLAINING WHAT WAS BEING DONE TO ME.

37- On About 3-15-21 I WROTE TO THE COMMISSIONER CAROL MICI, WHERE I EXPLAIN WHAT HAPPENED AND I EXPLAINED THAT THIS ADMINISTRATION HAD ALLOWED IN MORE THAN ONE TIME COPS COMMIT VIOLATIONS AGAINST ME, AND THEN ~~THEY~~ ACCUSED ME OF ASSAULT STAFF.

38- On About ~~3~~-12-21 SPECIAL DISCIPLINARY OFFICER SERVED ME WITH THE EVIDENCE COPIES OF THE PHOTOS AND TESTIMONY OF THE OFFICERS REPORTS.

39- On About 3-11-21- I RECEIVED THE FIRST EXTENSION OF TIME UNTIL 3-17-21 WITH EVIDENCES REPORTS.

40- On About 4-21-21 AGAIN, I WROTE TO COMMISSIONER CAROL MICI. I EXPLAINED THAT I HAD BEEN IN THE RHU FOR 2 MONTHS UNABLE TO CONTACT MY FAMILY, OR MAKE CALL, OR DO LEGAL ISSUE, BECAUSE I WAS GIVEN ONLY 4 UNDER SHORTS AND # T-SHIRTS. NO DICTIONARY OR ANY OTHER PROPERTY. I ~~ALSO~~ ALSO TOLD HER THAT I HAD BEEN HELD IN THE RHU IN VIOLATION OF MY CONSTITUTIONAL RIGHTS. EX-C

41- On About 6-12-21 SUPERINTENDENT NELSON ALVES MADE A ROUND IN THE RHU. AND I ASKED

HIM IF HE HAD SEEN THE TAPE FOR WHICH I HAD BEEN HELD IN HERE ACCUSED OF ASSAULT AN OFFICER. HE SAID, YES.

42- WHEN I ASKED THE SUPERINTENDENT, IF HE HAD SEEN ME ASSAULTING THE OFFICER? ~~A~~ HE SAID YES, YOU ASSAULTED THE ~~\_\_\_\_\_~~ OFFICER.

43- NO WHERE IN THE CAMARA SHOW ANY ASSAULT ON MY PART. THE OFFICER DO NOT MENTION ASSAULT, VIOLENCE OR ANYTHING LIKE THAT. NO ONE OF THE 9 OFFICERS WHO RAN TO THE PLACE OF THE INCIDENT MENTION ANY VIOLENCE, RESISTANCE, OR ASSAULT ON THEIR REPORT EXHIBITS 18 TO 29

44- THE DISCIPLINARY HEARING WAS SCHEDULED FOR THE 5-24-21 BUT ON THAT DATE, THE DDU DISCIPLINARY OFFICER DID NOT SHOW UP. THE THIRD TIME THIS HAPPENED.

45- ON 6-2-21, DISCIPLINARY SPECIAL OFFICER BRIAN MULVEY CAME TO THE CELL WHERE I HAVE BEEN FOR OVER (3) MONTHS, TO GIVE ME ANOTHER ~~EXTENSION~~ OF TIME UNTIL (6-10-21) SEE EXHIBIT D

46- ON 6-2-21 DISCIPLINARY OFFICER BRIAN MULVEY BROUGHT A NEW PACKAGE OF EVIDENCES, AND HE WANTED ME TO READ IT THROUGH THE DOOR WHERE THEY PASS THE FOOD TO ME. EXHIBIT E

47- I DO USE EYE GLASSES AND BEHIND THE DOOR I COULD NOT READ THE PAMPHLET WELL. OFFICER MULVEY REFUSED TO GIVE IT TO ME OR TO PASS THEM TO ME SO I COULD BE ABLE TO READ THOSE PAPERS, BUT I NOTICED THAT SOMETHING WAS NOT RIGHT IN THOSE EVIDENCES. ONE, THEY

said something about bringing me in a wheelchair. I could not finish to read the report because he did not allow me to be able to read it inside my cell where I could read it; That report about wheelchair is not right. I was never carried in a wheelchair. I don't read English well.

48- On this report that the special disciplinary MULVEY did not allow me to have a copy, OFFICER JOSEPH L. ELSMORE said that he did not work at Walpole.

49 I ASKED THE SPECIAL DISCIPLINARY OFFICER, THAT IF HE WAS NOT THE OFFICER, WHY THEY DO NOT SHOW ME THE DDU REPORT THAT I WAS SENTENCED TO (3) YEARS DDU.

50- SPECIAL DISCIPLINARY OFFICER BRIAN MULVEY SAID THAT THERE IS NOT D-REPORT OR REPORT THAT I WAS IN DDU SINCE 2009 TO 2010.

51- THAT STATEMENT MADE ME QUESTION EVERYTHING HE SAID, AND I AM STARTING TO QUESTION, IF THE FACT THAT I WAS SENT TO THIS INSTITUTION BY A MENTAL HEALTH PROGRAM, IT IS NOT MAKING SOME PEOPLE IN THIS ADMINISTRATION TO THINK THAT I AM REALLY GONE MENTALLY. IT HAPPEN TO BE THAT MENTAL HEALTH DOCTOR DR HALBY USED TO WORK IN DDU DURING THIS TIME.

52. SOME TIME AROUND 2007 OR 2008 DR. HALBY RECOMMENDED ME TO GO TO BRIDGWATER STATE HOSPITAL AFTER A NERVE BREAK DOWN THAT I HAD IN DDU DURING THE TIME THAT I WAS DOING THOSE 3 YRS. DDU. I'VE BEEN IN PRISON FOR 38 YRS.

53- OFFICER MULVEY SAID THAT THERE IS NOT RECOUNT OF ME BEING IN DDU FROM 2007 TO 2010. I HAVE BEEN IN PRISON SINCE 1983 UNTIL NOW. I WAS IN AND OUT DDU FOR OVER 20 YRS, COUNTING DSD. IF I WAS NOT IN DDU THOSE THREE YRS. WHERE I WAS?

54- AROUND 2007 OR 2008 DR. HALBY RECOMMENDED THAT I WERE TRANSFERRED TO BRIDGEWATER STATE HOSPITAL, WHERE I WAS UNTIL 2009 THAT I WAS APPROACHED BY MEMBERS OF THE NEW PROGRAM THAT WAS GOING TO BE OPENED TO PLACE PEOPLE WHO HAD BEEN IN DDU FOR TOO LONG. I WAS A MEMBER OF THE CLASS ACTION 55. THAT PROGRAM EVALUATE THE PERSON FOR SIX MONTH BY MENTAL HEALTH DOCTORS. AFTER SIX MONTH IF THEY APPROVE YOU TO GO TO ANY PLACE, THEY SEND YOU AND YOUR DDU TIME IS FINISHED.

56- ON 2010 THE S.T.P IN SHERLEY MAX. AFTER SIX MONTH OF EVALUATION, CLASSIFIED ME TO NORFOLK MEDIUM SECURITY, AND TO BE PLACED IN A SINGLE CELL DUE TO MY REALITY. I HAD BEEN HELD IN SEGREGATION, BEING ABUSED FOR SO MANY YEARS, THAT I WOULD NOT BE ABLE TO ADJUST TO LIVE WITH OTHER PERSON.

57- THE RECOMMENDATION WAS APPROVED BY THE COMMISSIONER, AND IN 2010, I WAS TRANSFERRED TO NORFOLK.

58- WHEN I ARRIVED HERE THIS INSTITUTION WAS RUN BY THE SAME PEOPLE THAT ~~WERE RESPONSIBLE~~ THAT HAD BEEN TRANSFERRED FROM WALPOLE, AFTER THE LAW SUITE THAT MADE WALPOLE CLEAN ITSELF.

59. The Director of Security, Robert Bloods who also once had accused me of assault ~~at [REDACTED]~~  
~~[REDACTED]~~ He refused to put me in a single and he placed me to live with young people, some who could not understand a word I said.

60 On 11-14-12 OFFICER Joseph M. DeOliveira jumped over the Property Department window and grabbed me by my T-shirt, breaking it, then HE ACCUSED ME OF LONGING AT HIM. Exhibit F

61. ON THE D-BOARD THE DISCIPLINARY OFFICER DENIED ALL THE WITNESS IN MY DEFENCE AND I WAS FOUND GUILTY SEE EVIDENCE PAPER AS EXHIBIT G.

62. I WAS SENT BACK TO THE R.T.U. IN THE MAX-SHERLEY MAX FOR BEING JUMPED.

63. ~~Sherley Max sent me to Norfolk in 2015~~ still my life did not improve. This time the DEPUTY SHERLEY ELLIOTT REFUSED TO COMPLY WITH THE RECOMMENDATION THAT I WERE PLACED IN A SINGLE CELL.

64. On about 1-9-15 OFFICER John Morrison goes to my cell to make a check down and he ~~got~~ A TOP OF A DOMINOES BOX, BROKEN THAT WAS ON TOP OF THE TABLE WITH THE DOMINOES, AND BECAUSE IT WAS BROKE WITH A POINT THAT TO HIM, IT LOOK LIKE A WEAPON, HE PUT ME IN THE BHU FOR ALMOST 5 MONTHS CHARGING ME OF POSSESSION OF A WEAPON. IT WAS CLEAR IT COULD NOT BE A WEAPON.

65. THIS PLASTIC IS NOT STRONG ENOUGH TO SCRATCH ANYBODY, THAT IS WHY IT IS ALLOWED IN HERE.

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66- THE IPS. DEPARTMENT MADE A COPY OF  
THE SO CALLED WEAPON AND ON PAPER IT LOOK LIKE  
A KNIFE BUT THEY KNEW WHAT IT WAS.

67- Almost 5 months later a student of law  
from HARVARD VISITED me and they threw away the  
D-Report without a hearing. They intentionally kept  
me in SEGREGATION FOR 5 months. See exhibit H--

68- On about 6-15-18 I was in a cell with a young  
man who did not want the police to move me with  
him, jumped on me, and being young, he had his  
Wife with me he sent me to the outside hospital from  
the beating that this kid gave to me. I was 65 yrs.  
I could not fight a young man.

69- When I returned from the Hospital, they  
placed me in a cell by myself in 8-2. The 8<sup>th</sup> ARE  
Contract units. Contracted electronically. Those units  
ARE TRANSITIONAL units. They do not enjoy many of the  
privileges that a REGULAR unit enjoy, such the FREEZER  
and other COMTEEN item that they not sale in that unit.  
THERE ~~WILL BE TAKEN~~ ~~IF THEY ARE NOT USED~~. IN A CELL BY MYSELF.

To I have been writing to the Commissioner and  
to the Superintendent, but they always refuse to get  
me in a single cell in A REGULAR UNIT.

71- On Around 2-14-19 I was going to hospital  
to TAKE my medication and OFFICER DELIVERED STOP-  
ED ME AND HE ASKED ME FOR I.D. I GAVE HIM THE  
I.D. HE PATTED me and he said, TURN. I said, TURN,  
Why. I HAVE nothing on me. ARE YOU HARRASSING ME?

72. HARRASSING YOU? COME ON, AND HE TOOK ME  
TO THE O.I.C. I WENT WITH HIM, I HAD DONE NOTHING.

73. IN THE OIC WERE A LOT COPS. I FELT SAFE  
THESE, BUT WHEN WE ARRIVED TO THE OIC, HE TOLD  
ME TO GET IN THE CELL THAT THEY PUT PEOPLE WHEN  
THEY GET IN TROUBLE, WAITING CELL IT IS CALLED.

74. I HAD COMMITTED NO OFFENSE, I SAID, NOW  
WHAT DO YOU BROUGHT ME HERE FOR?

75. AGAIN HE DEMANDED THAT I GO IN THAT  
CELL. THIS TIME HE TRIED TO PULL ME INSIDE BY MY  
HAND, BUT I PULLED BACK MY HAND.

76. THE COPS THAT WERE THERE ~~SAY~~) WHAT HAPPENED  
AND THEY JUMPED ~~ON~~ AND THEY DRAGGED ME TO THE FLOOR.

77. THEY PUT ME IN THE RTV. AND AGAIN ~~HE~~  
OFFICER DE OLIVEIRA WRITE A D-REPORT FOR ME OF  
ASSAULT THE STAFF. THAT I ASSAULTED HIM.

78. AS I RECEIVED THE D-REPORT, I COULD NOT TAKE  
ANY MORE; I STOPPED ACCEPTING ANYTHING FROM THE COPS,  
FOOD, ~~AND~~ ANYTHING. I DID NOT BELIEVE THAT THIS GUY WAS  
DOING THAT TO ME AGAIN. I WENT 25 DAYS WITHOUT EATING.  
THEY SENT ME TO THE OUTSIDE HOSPITAL. COPS USE ~~HE~~ ASSAULTED  
ME TRICK, EVEN IF YOU ONLY TOLD THEM THAT THEY HAVE NOT  
RIGHT TO DO TO YOU WHAT THEY WANT TO DO? IT WORKS FOR  
THE COPS IN PRISON, WHERE WE ARE NOT HUMAN BEING  
IN PRISON IN THIS COUNTRY. OVER 5 TIME I HAVE BEEN ASSAULTED.

79. I WAS BROUGHT FROM THE OUTSIDE HOSPITAL  
AND I WAS TOLD THAT IF I PLEAD ON A MINOR OFFENSE THEY  
RELEASE ME TO GENERAL POPULATION. I PLEADED TO WHAT -

-13-

EVER THEY TOLD ME TO PLEAD GUILTY TO. I JUST WANT TO GET OUT THIS SITUATION

80- THEY PLACED ME IN 8-1 WHERE I HAD BEEN UNTIL 2-21-21 THAT I HAD THIS INCIDENT WITH OFFICER ELSMORE. WHAT MAKE ME THINK IS, THAT THEY SAY THAT THIS OFFICER DID NOT WORK IN WALPOLE. THAT PLAY WITH MY MIND.

81- THERE ARE THREE QUESTIONS THAT I KEEP ON ASKING- (1) IF HE DID NOT WORK IN WALPOLE AND HE IS NOT THE OFFICER WHO GAVE ME THE DDU D-REPORT IN 2007. WHY WHEN I WENT TO HIM IN 8-1 AND I TOLD HIM. YOU KNOW I DID NOT ASSAULT YOU! HE MUMBLED THAT IS THE PASS. THAT IS IN MY MIND, BUT THAT COULD BE DENIED THAT HE SAID THAT. (2) WHY THE SPECIAL DISCIPLINARY OFFICER SAID THAT THEY CAN NOT FIND THE D-REPORT THAT BROUGHT ME TO DDU IN 2007. IT CAN PROVE THAT I WAS WRONG. (3) HOW CAN IT BE POSSIBLE THAT THEY SAY THAT.

THERE IS NOT RECORD THAT I WAS IN DDU FROM 2007 UNTIL 2010. IT IS EASY TO FIND UP, THE TRUE, THE MENTAL HEALTH DOCTOR, IN MY CASE, WORKED IN DDU DURING THAT TIME- AROUND 2007 OR 2008 HALVIN MY MENTAL HEALTH DOCTOR WAS WHO SENT ME TO BRIDGEWATER, BECAUSE I WAS BEING SO ABUSED THAT I BECAME PARANOID. I SUFFER FROM ~~THE~~ HORRIBLE ABUSES, DURING THAT TIME IN DDU. HE WAS THE DOCTOR IN DDU WHO RECOMMENDED THAT I ~~SHOULD~~ BE SENT TO BRIDGEWATER.

82- I HAVE BEEN TRYING TO GRIEVANCE ~~ON~~ ON THE ABUSES THAT I HAVE TO ENDURE SINCE I WAS TRANSFERRED HERE, BUT THE GRIEVANCE AND THE APPEAL TO

The grievance was denied on legal issues I am not able to defend when I am a cell without any legal document, And not even the grievance Rule and Regulation. Yes, They have computers here, but I don't know how to use it. I am enclosing As Exhibit (I) And Exhibit (J.)

82. On D-REPORT #471918, OFFICER is charging me OF ASSAULT, however on his D-REPORT he does not mention that he was assaulted, or that the inmate, me, acted violently, raised his hand at him, not, he said that he commanded me to stop, repetitively and that I continued to argue that I was doing nothing wrong. However, he wrote a D-REPORT charging me of ASSAULT STAFF. And he RECOMMENDED to THE DDC AND THE DA. And For that ludicrous charge, they have been holding me in SEGREGATION EVER SINCE.

83- OFFICER Elsmore, who was working in the window where the nurses pass the medication, moments before I went to the window, ~~He alleged that Doctor [REDACTED]~~ ~~He alleged~~ Alleged that he saw two white pills on me. One white pill that he said that I tossed it away. Then, he said that when he told me to open my mouth, that he saw another white pill in my mouth one pill, it is said to be found in the snow.

84. THERE IS CAMARA ALL Round ~~the~~ in The hospital. If I had got that pills from somebody, The CAMRA would have caught me. I do not get ANY NARCOTIC

medication or psychotic medication, and I only get one white pill. One lithium. Where did he see two white pills on me. And after the pill that they say they found, they did not test it. To see if I get that type of medication.

85- DEFENDANT JUMP ON PLAINTIFFS NECK AND DRAGGING him TO THE FLOOR CAUSED HARM, BRUISES ON HANDS BECAUSE THE DEFENDANT UNREASONAL BEHAVIOR PLAINTIFF HAND WAS BENDED HURT AND THUMB ON HIS RIGHT HAND WAS PULLED OUT OF ITS PLACE CAUSING PLAINTIFF ALOT ~~OF~~ OF PAIN. ENCLOSED ARE PLAINTIFF PHOTOS AS EXHIBITS 6,7,8,9.

86 DEFENDANT ALLEGES THAT THIS CHARGES ARE FOR ASSAULT BUT HE DOES NOT ALLEGED THAT PLAINTIFF ASSAULTED HIM NOR THE OFFICERS WHO RAN TO THE PLACE OF THE ST CALL ASSAULT AL/EGE THAT THEY SAW OR HEARD ANY ASSAULT, SEE EXHIBITS # 18- THROUGH # 24 AND EXHIBITS # 26 AND # 29 THE OFFICERS' REPORTS.

87 DEFENDANT IS BLAMMING PLAINTIFF FOR BRUISES THAT HE CAUSED TO HIMSELF WITH THE FLOOR THAT HE DRAGGED PLAINTIFF TO, THAT IT CAUSED PLAINTIFF BRUISES TOO: HE CAUSED HIMSELF THOSE BRUISES FOR BEING UNCONTROLLED. HE SAID THAT HE SAW A INMATE CONCEALING MEDICATION COMING OUT OF HOSPITAL AND HE SHOKE TO VIOLENTLY ARREST THE INMATE WHO DID NOT WANT TO STOP WHEN HE GAVE THE DIRECT ORDER. PLAINTIFF HAS NOT EDUCATION, BUT THIS BEHAVIOR DOES NOT LOOK LIKE THAT IS THE WAY HE HAS BEEN TRAINED TO DEAL WITH

PRISONERS IN A MEDIUM SECURITY PRISON. WHAT  
BRING BACK WHY. WHY FOR ~~DISOBEEY~~ AN ORDER  
ARE YOU GOING TO JUMP ON ANYBODY, YOU SAID YOU  
SAW THROWING OUT MEDICATION, WHEN YOU KNOW  
HE CAN'T GO NO WHERE.

88- In information and belief, the policy of placing inmates in the B.H.U. here in NORFOLK, And hold the inmates ~~in~~ in segregation for long time was ordered to stop, by a court order, because before the three ~~to~~ floors in this unit were always full with inmates, mostly color people for minor violations.

#### LEGAL CLAIM

89- DEFENDANT Nelson Alves violated Plaintiff Due Process right against cruel and unusual punishment protected under the Eighth Amendment of the Constitution. Defendant Alves has held Plaintiff in solitary confinement for the last four months pending an unreasonable charged that is not showed in the TAPE when the incident occurred and neither any of the officers in record including the reporting officer Allege or wrote in the D-Report: ASSAULT STAFF. WHEN, WHERE.

90- Defendant Joseph L. Elsmore Abosely And maliciously assaulted Plaintiff and caused Plaintiff skin to be ripped and his hand hurt

when OFFICER ELSMORE who Alleges that he saw THE PLAINTIFF TOSSED A WHITE PILL IN THE SNOW JUMPED AND DRAGGED PLAINTIFF THE FLOOR causing hurt on PLAINTIFF body. IN VIOLATION OF THE CONSTITUTIONAL THAT PROTECT PLAINTIFF FROM UNUSABLE PUNISHMENT UNDER THE FOURTEENTH AMENDMENT AND 8TH AMENDMENT.

91 DEFENDANTS NELSON ALVES AND DEFENDANT JOSEPH L. ELSMORE VIOLATED PLAINTIFF EQUAL PROTECTION RIGHT WHEN THEY ASSUMED PLAINTIFF GUILTY OF SOMETHING NO DESCRIBED IN THE D-REPORT AND KEPT PLAINTIFF 11 MONTHS IN SOLITARY CONFINEMENT WITHOUT OF HEARING WHICH IT IS IN VIOLATION OF THE EQUAL PROTECTION THAT IS PROTECTED BY THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

92 PLAINTIFF HAS NO PLAIN, ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN PLAINTIFF HAS BEEN AND WILL CONTINUE TO BE IRREPARABLY HARM BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS THE DECLARATORY AND INJUNCTIVE RELIEF WHICH PLAINTIFF SEEK.

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGMENT GRANTING PLAINTIFF:

- A DECLARATORY JUDGMENT THAT THE DEFENDANTS' ACT, POLICIES AND PRACTICES DESCRIBED HEREIN VIOLATE PLAINTIFF'S RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES.

- 18-
- 2- A PRELIMINARY AND PERMANENT INJUNCTION WHICH:
- PROHIBITS THE DEFENDANT NELSON ALVES, HIS SUCCESSORS IN OFFICE, AGENT, EMPLOYEES AND ALL OTHER PERSONS IN ACTIVE CONCERT AND PARTICIPATION WITH THEM FROM TRANSFER PLAINTIFF TO ANOTHER INSTITUTION.
  - REQUIRES DEFENDANT ALVES TO RESCIND THE POLICY OF PLACING PLAINTIFF IN DISCIPLINARY UNIT FOR LONG PERIOD OF TIME WITHOUT DISCIPLINARY HEARING.
  - REQUIRE DEFENDANT ALVES TO REMOVE FROM THE PLAINTIFF'S PRISON FILES ANY WRITEMPS OR OTHER REPORTS CONCERNING PLAINTIFF ASSAULT OFFICER JOSEPH D. ELSMORES OR ANY OTHER ASSAULT STAFF.
  - REQUIRES THE DEFENDANT ALVES TO REMOVE PLAINTIFF FROM THE 8<sup>TH</sup> UNIT, A CONTROL UNIT THAT IS SUPPOSED TO BE USED AS THE TRANSITION UNIT AS IT ALWAYS HAS BEEN AND NOT TO BE PLACED UNWANTED PRISONERS AS IT IS BEING USED LATELY.
- 3- COMPENSATORY DAMAGES IN THE AMOUNT OF \$100,000 TO THE PLAINTIFF.
- 4- PUNITIVE DAMAGE OF \$100,000 TO THE PLAINTIFF.
- 5- TRIAL BY JURY ON ALL ISSUES TRIABLE BY JURY.
- 6- PLAINTIFF COST OF THIS SUIT.
- 7- SUCH OTHER AND FURTHER RELIEF AS THIS COURT MAY DEEM JUST, PROPER AND EQUITABLE.
- JUNE 7, 2021
- RESPECTFULLY BOUND  
RAFAEL DE ARMAS  
P.O. BOX 43, NORFOLK, MA 02056  
6-7-21